

**City of Fort Lauderdale
Utility Advisory Committee
Tuesday, January 23, 2007 – 6:43 p.m.
100 North Andrews Ave., 8th Floor Conference Room
Ft. Lauderdale, Florida 33301**

Committee Member	Attendance	2007 Cumulative Attendance		
		Present	Absent	Total
Bunney Brenneman, Chair	P	2	0	2
Terri Murru, Vice Chair	P	2	0	2
Richard Barrett	P	2	0	2
Bob Caine	P	2	0	2
L. Thomas Chancey	P	2	0	2
Bob Cole	P	2	0	2
Caldwell Cooper	P	2	0	2
Joe Holland	P	2	0	2
Dr. Magdalene Lewis	P	2	0	2
Bernie Petreccia	P	2	0	2
Fred Stresau	P	2	0	2
Clare Vickery	P	2	0	2
Dr. Geri Udell	P	2	0	2
Nathaniel Wilkerson	P	2	0	2
Vacant Seat				
City Representatives				
City Commissioner Christine Teel				
Peter Partington, City Engineer				
Kirk Buffington, Director, Procurement Services				
Bob Dunckel, Asst. City Attorney				
Jonda K. Joseph, City Clerk				
Mona Laventure, Recording Secretary				

Guests

Randy Knight, Asst. City Manager, City of Winter Park
Tico Perez, Baker Hostetler, Past President, Orlando Utilities Commission

I. Call to Order

Chair Bunney Brenneman called the meeting to order at 6:43 P.M.

Ms. Joseph, City Clerk, advised that Ms. Laventure with Prototype, Inc. has been hired to serve as the Committee's recording clerk.

Ms. Joseph reviewed procedures including:

- Announcement of persons making and seconding motions
- Power Point and slide presentations to be attached to the minutes without the necessity of reiterating the dialogue
- Direction has been given to the minute takers to provide approximately five to six pages of summary per meeting hour
- Audio recordings are maintained on the City's server for a period of time

II. Roll Call

Ms. Laventure called roll and noted attendance.

III. Self Introductions

Committee members and guests introduced themselves.

IV. Old Business

• Line Clearing Status

Ms. Shatas, FPL, advised that FPL will be sending out maps to the Homeowner Association Presidents showing where they will be doing line clearance in about one month. They will notify the Forester with the City, the Presidents of the Homeowners Associations, and provide information to each District Commissioner, as well as any persons receiving calls from FPL. After that, door hangers will be placed on the residences. Work will be done at Sistrunk, Orchid, Rohan, and Holy Cross area substations. Further status will be provided at the next meeting.

• Update on RFP-Consulting Services-Electrical Infrastructure Needs Assessment & Strategy

Mr. Partington reported that the City is back-tracking the bid and putting out a new solicitation better aimed at an examination of municipalization. The City Commission has requested that they look at the possibility of putting the solicitation under the Consultants Competitive Negotiation Act (CCNA) rather than an RFP process. The City Attorney is currently reviewing that issue and will advise further before they proceed. Mr. Dunckel indicated that the City Attorney's decision on that matter is the law does not require them to do the solicitation under CCNA and they may do it under an RFP. From a management question, they may want to restructure the bid; however, that decision is not under the purview of the City Attorney's Office. Now that the City Attorney's Office has provided its opinion, Mr. Buffington indicated he would be moving forward with the City Manager's office to determine how staff will proceed. The draft body of the RFP has been reviewed by the City Commission and it should be ready for release in the next few weeks.

- **Other Old Business**

Mr. Stresau asked Ms. Shatas if she had any conversation with the Parks Department regarding the removal and trimming of the palms on Oakland Park Boulevard in September. She advised she had not. It was Mr. Stresau's hope that someone from the Parks Department would be present, as the palm fronds are back up in the wires. He was under the impression the trees were to be removed. Ms. Shatas indicated she would call the Parks Department the following morning.

At the last meeting, Mr. Caine had asked that updating of the undergrounding ordinances be placed on the agenda. He was advised that item had been removed from the agenda to make room for the guest speakers and would be placed on the February agenda. Mr. Caine asked that it be on each agenda so they can at least get a status update. Mr. Holland agreed, asking for an accounting of who is removing that item from the agendas. Mr. Partington noted that, although it is not on the agenda for discussion, there were informational memos in the Committee's meeting package from Mr. Dunckel with model underground ordinances. He suggested consideration and discussion of those model ordinances be placed on the next agenda. Mr. Caine reiterated that those types of line items should remain on the agenda. Vice Chair Murru asked that undergrounding be placed at the top of the agenda for the next meeting, pointing out that being provided memos in their packages is "part of action being made" although that item is not necessarily on the agenda for that current meeting discussion, but can be reviewed in anticipation of discussion at a following meeting. Mr. Caine was specifically referring to the 2002 document worked on by the Committee. This matter was then tabled to the next meeting.

V. New Business

- **Utility Municipalization & Undergrounding
Randy Knight, Asst. City Manager, City of Winter Park**

Chair Brenneman introduced the Assistant City Manager for Winter Park, Randy Knight, who gave a historical review and presentation of the action Winter Park had taken when Progress Energy was to renew their franchise. He indicated that Progress Energy had not been willing to place lines underground unless the residents paid for the work and Progress Energy owned the lines. He briefly reviewed the negotiation process with regard to municipalization as to reliability of service, ownership of lines, etc.

Several key points were:

- Providing a feasibility study through an independent consultant
- Local control and accountability
- Reinvestment of profits
- Improved reliability of service

- Control over tree-trimming
- Employee dedication
- Hurricane damage control
- Legal rulings and arbitration process
- Breakdown of system costs including, equipment, land and easements, books and maps, reintegration, and amortized stranded costs based on notice

Mr. Stresau asked regarding transmission line pass-throughs from other municipalities. Mr. Knight advised that some separation had to be done to service non-Winter Park residents using the same lines.

- Scheduling of a voter referendum
- PAC formed by Progress Energy opposing the purchase and costs expended to fight the referendum
- 69% voted in favor of the purchase
- City profit and loss figures after municipalization

Mr. Barrett asked if Winter Park had their own power generation or if they purchased power on the open market. Mr. Knight advised that they went out to bid and took the low bidder (Progress Energy) entering into a five-year agreement. Winter Park has a Utility Advisory Board which makes recommendations, although the recommendation was made to, after three years, set up a Utility Commission separate from the regular City Commission. The power system starts from a substation owned by the City. Vice Chair Murru inquired regarding specific directives for profits. Mr. Knight pointed out that their intention was to re-input all profits back into the system and not use those monies to balance their city budget.

Mr. Knight continued discussing:

- Demographics
- First year costs and problems, i.e., separation and reintegration damage and line maintenance
- Capital upgrades
- Bid for and hiring a utility service company to take over; additional city employees hired
- Hiring of a tree service

In response to Mr. Barrett's question, Mr. Knight indicated that the added employees were hired under a separate electric department within the city.

The presentation also covered:

- Profit guesstimates (low \$1 million range); three to five years - \$2.5 to \$3 million range (5%-6%)

- Operating and tree trimming backlog costs

Ms. Vickery asked if the size of the city and lack of commercial and industries facilities were considerations in their overall success of municipalization. Mr. Knight stated he was unsure, however, he noted that they are charging the same rate schedule for the first three years, adding that weather conditions also affect profit margins. Mr. Chancey asked if they had longer term goals to underground the system ensuring "real profits," and was advised by Mr. Knight that their plan is to get the system underground, although the plan has not yet been fully devised. Their Utility Advisory Board has made several recommendations and citizen surveys recently completed will be presented for discussion. Three options presented were: 1) as profits come in, utilize them to underground, 2) increase rates taking the extra 5% to underground, 3) float a bond issue to underground as much as possible now, or 4) lower rates and discard idea of undergrounding. In response to Mr. Petreccia's question regarding flood prone areas, Mr. Knight said they generally do not have a water table problem in Winter Park. Vice Chair Murru, who is familiar with the Winter Park area, noted the huge electrical system fatigue, as well as pointing out the residents' protection of the beauty of the existing tree canopy there. It was noted by Mr. Knight that the power company, per contract, has to provide them with the same level of power given to any other customers.

- **Utility Municipalization & Undergrounding**
Tico Perez, Partner, Baker Hostetler,
Immediate Past Chair, Orlando Utility Commission

Mr. Perez stated he is a huge fan of municipal power, although he is realistic about the process, wanting to ensure that the UAC is aware of what they are getting into if they chose to "go down that road," what obstacles they may face, what the issues are, and how those issues can be resolved. Two decisions to be made are: 1) if they really want to municipalize, and 2) whether it makes economic sense. Key points to considering municipalization are local control, local autonomy, and income potential. Steps to be taken include:

- Conducting a feasibility study analyzing system costs, including assets and equipment inventory and value, land and easements, reintegration, stranded costs
- Engage counsel to review the existing franchise agreement for rights, options, and remedies; review case law and policies; and provide an understanding of legal options
- Appoint a task force of key individuals to manage the process

Mr. Perez pointed out that decisions need to be made on how the project will be paid for as, for example, Winter Park cost \$42 million for eight square miles and 18,000 customers. Fort Lauderdale municipalizing will be on a much grander scale. There will have to be discussions regarding financing options, the necessity of a referendum, and possible future City Charter changes – and the task force will be charged with the

responsibility of laying out a strategy to begin the process, timing, and scheduling. It will take approximately six to nine months for the RFP response and completion, with the legal review being conducted concurrently; a referendum may have to be funded, a decision will need to be made on what kind of system to implement, whether to buy the system, bid out component pieces, or bring in an operator to run the operation. All options have to be considered with a determination made on which direction to take. He cautioned the last thing they want to do is start the process and invest hundreds of thousands of dollars if there is no end goal in mind. A year of due diligence needs to be completed so that when the consultant report and legal analyses come back and the City Commission is ready to move forward, the Committee will be ready to implement the next steps. The timing is right to begin now, for completion in 2009 when the franchise agreement expires. Mr. Knight commented that many of the legal battles Winter Park fought will not have to be fought again.

Estimated cost of the due diligence phase was unknown as comparisons could not be made to the Winter Park area, although Mr. Buffington guesstimated \$500,000.00 on the conservative side, with Mr. Perez proposing between \$600,000 and \$1 million to get to a "decision point." Mr. Buffington did not believe that the City Commission had previously discussed the cost. Mr. Perez pointed out that this is a once in a 30-year opportunity for the City to see if their existing power arrangement makes sense, if they can get better the deal, and/or take it over themselves and make it work. Mr. Chancey inquired regarding profits in excess of payment of the debt service; also asking about monies spent on tree pruning. It was noted that there are no shareholders or payment of income tax and those monies are factored into the rate structure. In addition, due to the ability to coordinate with the city anytime there is roadwork, sewer line, or major construction, undergrounding costs are cut dramatically.

Mr. Perez advised that Orlando owns its own system and power plants generating their own power using coal or natural gas, whichever is cheaper and more available - and would not be able, per Mr. Petreccia's question, to estimate the value of the distribution and potential profit for the City of Fort Lauderdale, confirming though that this is a "very profitable business." Ms. Vickery asked if programs were offered to businesses who use maximum power to give them cost savings, as well as accessible programs to create a business-friendly atmosphere. Mr. Perez indicated they do offer a commercial rate and provide a clean power guarantee, as well as providing economic incentives for a long term power agreement and bringing businesses into the community. Mr. Underwood asked if consideration had been given to renting their underground distribution to telephone and cable companies. Mr. Perez explained that they share their easements and lines, but have not talked about owning those distributions or running additional lines which could be rented. Cable and phone systems partner with power when installing conduits, putting in their own systems and doing their own work on new underground locations.

Mr. Partington told the Committee that the direction from the City Commission was to release the RFP to hire a consultant for a feasibility study; the retaining of legal counsel

is a separate issue. The City Attorney does have the discretion, by resolution of the City Commission to appoint outside counsel without a competitive process; alternatively, they could go through the competitive process, a decision which would be made by the City Commission.

Motion made by Vice Chair Murru, seconded by Mr. Petreccia, to encourage the City Commission to move forward with municipalization and all associated steps involved therewith, including legal evaluation. In a roll call vote, the motion passed 12-2, with Dr. Lewis and Mr. Cole opposing.

Dr. Udell asked for statistics showing how well Orlando recovered from the hurricanes, as opposed to neighboring municipalities without their own power. Mr. Perez agreed to provide those numbers, stating that they recovered at about the same pace due to a concerted effort between the power companies.

It was Mr. Dunckel's personal recommendation to retain special counsel in this regard; the final decision, however, being with the City Attorney's Office. Dr. Lewis suggested seeing additional presentations before moving this matter forward. Mr. Barrett felt the motion was timely and they should not pass on this opportunity.

Mr. Stresau asked Mr. Perez if his firm might consider reviewing the proposed RFP and was advised by Mr. Perez that although this type of RFP has been previously done and there were examples to use as a guide, it would be beneficial for it to be reviewed particularly with regard to legal ramifications. Mr. Stresau added that it would be "absurd" not to spend the nominal amount per home to look at "one of the most important decisions the City Commission will have to make in the next couple of years."

Mr. Dunckel assured the Committee that if priorities were restructured and shifted, it would be possible for him to have time to assist in the legal review.

Mr. Perez provided Chair Brenneman with a copy of the Maitland feasibility study.

- **Energy Roundtable III Update**

Wednesday, March 28, 2007, has been reserved at the Broward County Library Auditorium for the Energy Roundtable.

- **Other New Business**

VII. Good of the Committee

VIII. Next Meeting – Tuesday, 2/20/07 at 6:30 p.m.
Energy Roundtable III (2007)
Energy Workshop (2007)

As the regular meeting of the UAC is scheduled for Tuesday, March 27th, Chair Brenneman suggested moving the date of that meeting back on the calendar.

The upcoming meeting schedule is as follows:

- UAC regular - February 27, 2007 at 6:30 pm
- UAC regular - March 14, 2007 at 6:30 pm
- Energy Roundtable – March 28, 2007 at 5:30
- Energy Workshop – April (exact date not determined)

IX. Adjourn

With no further business to discuss, the meeting adjourned at 8:58 p.m.